

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
No. 21-CV-229

RUSSELL DORVIT,)	
)	
)	
Plaintiff,)	
)	UNOPPOSED MOTION TO CONTINUE
v.)	SCHEDULED TRIAL AND PRETRIAL
)	DISCLOSURES
EAST PENN MANUFACTURING CO.,)	
)	
Defendant.)	
)	
)	

COME NOW Plaintiff Russell Dorvit (“Plaintiff”), by and through the undersigned counsel and pursuant to Fed. R. Civ. P. 6 (b) and LR 6.1, and hereby submits this Unopposed Motion for Continuance of Scheduled Trial and Pretrial Disclosures (the “Motion”) and respectfully asks the Court to continue the trial date and corresponding pre-trial deadlines by 60 days. In support of this Motion, Plaintiff respectfully states the following:

1. Plaintiff filed the instant complaint on March 22, 2021. The case currently involves allegations that Defendant East Penn Manufacturing Co. (“Defendant”) unlawfully terminated Plaintiff’s employment.
2. On September 20, 2021, the Court noticed this case for trial the week of October 3, 2022 (Electronic Case Filing system “ECF” No. 14).
3. The parties have diligently litigated the case. The Court has previously granted two modest extensions of the discovery deadline: a fifteen (15) day extension granted on November 22, 2021 (ECF No. 16) and a thirty (30) day extension of discovery deadlines granted on February 1, 2022. (ECF No. 20).
4. Defendant filed a motion for summary judgment on April 1, 2022. (ECF No. 26.)

Briefing on the motion was completed on June 9, 2022. (ECF No. 41.) This motion remains pending before the Court.

5. This case was originally assigned to Judge N.C. Tilley, Jr. On June 30, 2022, the case was re-assigned to Judge Osteen.

6. In addition to the motion for summary judgement, Plaintiff's motion for leave to amend the complaint (ECF No. 32) is also fully briefed and awaiting a ruling. Briefing on said motion was completed on June 16, 2022.

7. On August 8, 2022, the Court notified the parties that the jury trial remains scheduled to commence on October 3, 2022 in the Greensboro Courtroom, Judge Osteen presiding. (ECF No. 43). Pretrial disclosures are scheduled for submission on September 2, 2022 and motions *in limine* are due September 9, 2022.

8. Given the late transfer of the case to Judge Osteen, who undoubtedly already had a full docket, it appears unlikely the Court will have the opportunity to rule on the two pending motions before the pre-trial deadlines and possibly before the current trial setting.

9. Rather, than wait for a *sua sponte* ruling by the Court continuing the trial date, judicial efficiency is better served by the Court ruling on this unopposed Motion now so that the parties can avoid incurring substantial fees in trial preparation.

10. The Court's ruling on the pending motions will determine what issues will be submitted to the jury for trial and, in turn, the substance of the parties' pretrial disclosures and motions *in limine*. Requiring the parties to submit pretrial disclosures and to make motions *in limine* prior to a decision on Defendant's motion for summary judgment serves no purpose and wastes precious resources.

11. Granting a continuance of the trial date also would better position the case for

successful settlement discussions. By way of background, on December 13, 2021, the Parties conducted an unsuccessful mediation. There have been no subsequent settlement discussions, while Defendant's motion for summary judgment remains pending. If the continuance is granted, and Defendant's motion for summary judgment denied, there should be sufficient time in the interim period before trial to explore settlement and possibly reconvene the mediation.

12. Plaintiff's counsel conferred with Defendant's counsel on August 19, 2022, and Defendant does not oppose the Motion and does not wish to be heard.

13. The Motion is filed more than one month before trial, which satisfies LR Rule 6.1(b)'s requirement to file continuance requests reasonably in advance of the scheduled trial date.

14. The Motion is filed in good faith and not for the purpose of unnecessary delay.

WHEREFORE, Plaintiff Russell Dorvit respectfully requests the Court grant a continuance of the trial date from October 3 to December 2, 2022, with a corresponding continuance of the pre-trial disclosure deadline (from September 2 to November 1, 2022) and the deadline for motions *in limine* (from September 9 to November 8, 2022).

This, the 22nd day of August, 2022.

Respectfully submitted,

/s/ Joshua R. Van Kampen
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CERTIFICATE OF SERVICE

I, Joshua Van Kampen, certify that I filed the foregoing document with the Court's Electronic Case Filing ("ECF") system on August 22, 2022. This filing via ECF automatically generates a Notice of Electronic Filing ("NEF"), which constitutes proof of service of the filed document upon all registered users. Service has thus been accomplished through NEF for all parties and counsel who are registered users of the Court's ECF system.

This, the 22nd day of August, 2022.

Respectfully submitted,

/s/ Joshua R. Van Kampen
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